## <u>Union to pay teachers for campaign violations</u> Local News

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OLYMPIA— The Washington Education Association (WEA) has agreed to return \$225,000 to teachers after using their wages for the union' s political agenda without their authorization. This settlement ends a nine-year lawsuit that included an appeal the U.S. Supreme Court in which the high court ruled in favor of the teachers, Davenport v. WEA. The suit began when the Evergreen Freedom Foundation (EFF) filed a complaint with the Public Disclosure Commission. To date, the WEA has been ordered or agreed to pay over \$1 million for violating teachers' rights in this case.

Teachers in Washington are generally required to pay for union representation as a condition of employment. Teachers who decline to join the union must also pay union fees, but are given protections in state law to ensure protection of their First Amendment rights. Specifically, RCW 42.17.760 required unions to get permission from nonmembers before using their payments for political activity. (The legislature amended the law in 2007, significantly weakening its free speech protections for union-represented employees.)

In 2000, EFF filed a complaint with the Public Disclosure Commission alleging the WEA had violated RCW 42.17.760. After an investigation, the WEA admitted to "multiple violations" of the law, and then-Attorney General Christine Gregoire filed a lawsuit against the union in October 2000. A Thurston County Superior Court judge found the union had committed intentional violations. The union appealed.

Meanwhile, in March 2001, a group of teachers led by former teacher Gary Davenport filed a separate class-action lawsuit against the WEA in order to recover their improperly-spent dues. The teachers were represented by Steven T. O'Ban of Ellis, Li & McKinstry PLLC and Milton L. Chappell of the National Right to Work Legal Defense Foundation, and supported by the Evergreen Freedom Foundation. This case was consolidated with the State's case against the WEA to determine the constitutionality of the law requiring unions to get permission for political spending.

In 2006 the Washington State Supreme Court ruled the law was unconstitutional. Justice Faith Ireland (retired) wrote that requiring unions to ask permission before spending nonmember dues on political activity was "too heavy an administrative burden." The State and the Davenport teachers both appealed to the U.S. Supreme Court.

On June 14, 2007, the U.S. Supreme Court unanimously upheld RCW 42.17.760 as constitutional. Justice Antonin Scalia wrote that &Idquo;unions have no constitutional entitlement to nonmember

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employees' fees." Thus, laws requiring unions to gain permission from employees before using the money to further the union's political objectives are constitutional.

Both cases were then returned to state court. The State settled its case with the WEA in December 2008. The WEA agreed to pay the State \$735,000 and return up to \$240,000 to affected teachers. Today's settlement for an additional \$225,000, bring the total the WEA has paid in penalties and restitution to teachers well over \$1 million dollars.

" With today' s settlement of the Davenport case, this matter is finally laid to rest, " said Steve O' Ban. " We are pleased that the WEA has been held accountable for its actions. The real victors today are the teachers who fought for nearly a decade to vindicate their rights. "

" This case was about a simple principle, " said Michael Reitz, general counsel of EFF, " to ensure that teachers are not forced to pay for political activity with which they disagree. No one should have to support someone else ' s political agenda as a condition of employment. "

## Additional Information

- U.S. Supreme Court decision in Davenport v. WEA (2007)
- · Audio comments from Michael Reitz, EFF general counsel
- <u>Clip 1</u>
- Clip 2
- Clip 3

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